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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,010	02/15/2002	Bradford B. Jensen	JENES-01003	1340
28270	7590	03/09/2005	EXAMINER	
O'MALLEY AND FIRESTONE 919 SOUTH HARRISON STREET SUITE 210 FORT WAYNE, IN 46802			NGUYEN, HUNG T	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/077,010

Applicant(s)

JENSEN ET AL.

Examiner

Hung T. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11-17 and 20-36 is/are rejected.
- 7) ☒ Claim(s) 9, 10, 18 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 33 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 33 recites the limitation "the threshold" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 8, 11-14, 17, 20-21, 23-29 & 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernazzani et al. (EP 1,077,441) in view of Kirkley et al. (U.S. 4,451,871).

Regarding claim 1, Bernazzani discloses a marker luminaire (10) comprising:

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- a housing with an exterior surface , an interior space and a light source mounted in the interior space [fig.1, col.2, lines 9-58];
- a light emitting diode (20a-20d) as a light source (14) [fig.1, col.2, lines 25-27];
- a light element (22) for transmitting light (14) over a broad angle viewing area & angle [fig.1, col.2, lines 25-41];
- an energization circuit is connected to the light emitting diode [fig.1, col.2, lines 46-58].

Bernazzani does not specifically mention a phrase a low current level energization circuit connected to the lighting emitting diode to luminesce at a level below a useful threshold of human photopic vision and a above a threshold of scotopic vision as claimed by an applicant.

Bernazzani discloses a marker luminaire (10) having:

- a light emitting diode (20a-20d) as a light source (14) [fig.1, col.2, lines 25-27];
- a light element (22) for transmitting light (14) over a broad angle viewing area & angle [fig.1, col.2, lines 25-41].

Kirkley teaches a circuit having a resistor (26) may provide a very low current for lighting a light source as light emitting diode (30) via a battery device (24) [figs.2,4, col.3, lines 38-45 and col.4, lines 21-29].

Therefore, it would have been obvious to one having ordinary in the art to employ the teaching of Kirkley in the system of Bernazzani for providing a minimum current to the lighting device and also produce enough light visible to be seen at the desired distances.

Regarding claims 2-3, Bernazzani discloses the marker luminaire (10) having:

- a light emitting diode (20a-20d) as a light source (14) [fig.1, col.2, lines 25-27];

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- a lighting element (22) for transmitting light (14) over a broad angle viewing area & angle [fig.1, col.2, lines 25-41].

Regarding claim 4, Bernazzani discloses an energy source is connected to the light emitting diode (20a-20d) [col.2, lines 46-51] without mention the low current level energization circuit includes a battery.

Kirkley teaches a circuit having a resistor (26) may provide a very low current for lighting a light source as light emitting diode (30) via a battery device (24) [figs.2,4, col.3, lines 38-45 and col.4, lines 21-29].

Therefore, it would have been obvious to one having ordinary in the art to employ the teaching of Kirkley in the system of Bernazzani for providing a minimum current to the lighting device.

Regarding claim 5, Bernazzani does not mention the light circuit having a low level switch for setting a level of a current supplied to the light emitting diode.

Kirkley teaches a circuit having a resistor (26) may provide a very low current for lighting a light source as light emitting diode (30) via a battery device (24) [figs.2,4, col.3, lines 38-45 and col.4, lines 21-29].

Therefore, it would have been obvious to one having ordinary in the art to employ the teaching of Kirkley in the system of Bernazzani for providing a minimum current to the lighting device.

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Regarding claim 8, Bernazzani discloses the marker luminaire (10) comprising:

- a housing with an exterior surface , an interior space and a light source mounted in the interior space [fig.1, col.2, lines 9-58] without mention the low current level energization circuit includes a battery;
- a light emitting diode (20a-20d) as a light source (14) [fig.1, col.2, lines 25-27];
- a lighting element (22) for transmitting light (14) over a broad angle viewing area & angle [fig.1, col.2, lines 25-41];
- an energization circuit is connected to the light emitting diode [fig.1, col.2, lines 46-58].

Kirkley teaches a circuit having a resistor (26) may provide a very low current for lighting a light source as light emitting diode (30) via a battery device (24) [figs.2,4, col.3, lines 38-45 and col.4, lines 21-29].

Therefore, it would have been obvious to one having ordinary in the art to employ the teaching of Kirkley in the system of Bernazzani for providing a minimum current to the lighting device.

Regarding claim 11, Bernazzani discloses the marker luminaire (10) further having a translucent (24) and a pole for supporting [col.2, lines 14-45].

Regarding claim 12, Bernazzani discloses the marker luminaire (10) having:

- a light emitting diode (20a-20d) as a light source (14) [fig.1, col.2, lines 25-27];
- a lighting element (22) for transmitting light (14) over a broad angle viewing area & angle [fig.1, col.2, lines 25-41].

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Regarding claim 13, Bernazzani discloses an energy source is connected to the light emitting diode (20a-20d) [col.2, lines 46-51] without mention the low current level energization circuit includes a battery.

Kirkley teaches a circuit having a resistor (26) may provide a very low current for lighting a light source as light emitting diode (30) via a battery device (24) [figs.2,4, col.3, lines 38-45 and col.4, lines 21-29].

Therefore, it would have been obvious to one having ordinary in the art to employ the teaching of Kirkley in the system of Bernazzani for providing a minimum current to the lighting device.

Regarding claim 14, Bernazzani does not mention the light circuit having a low level switch for setting a level of a current supplied to the light emitting diode.

Kirkley teaches a circuit having a resistor (26) may provide a very low current for lighting a light source as light emitting diode (30) via a battery device (24) [figs.2,4, col.3, lines 38-45 and col.4, lines 21-29].

Therefore, it would have been obvious to one having ordinary in the art to employ the teaching of Kirkley in the system of Bernazzani for providing a minimum current to the lighting device.

Regarding claim 17, Bernazzani discloses the marker luminaire (10) comprising:

- a housing with an exterior surface , an interior space and a light source mounted in the interior space [fig.1, col.2, lines 9-58] without mention the low current level energization circuit

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includes a battery;

- a light emitting diode (20a-20d) as a light source (14) [fig.1, col.2, lines 25-27];
- a lighting element (22) for transmitting light (14) over a broad angle viewing area & angle [fig.1, col.2, lines 25-41];
- an energization circuit is connected to the light emitting diode [fig.1, col.2, lines 46-58].

Kirkley teaches a circuit having a resistor (26) may provide a very low current for lighting a light source as light emitting diode (30) via a battery device (24) [figs.2,4, col.3, lines 38-45 and col.4, lines 21-29].

Therefore, it would have been obvious to one having ordinary in the art to employ the teaching of Kirkley in the system of Bernazzani for providing a minimum current to the lighting device.

Regarding claims 20 & 24, Bernazzani discloses the marker luminaire (10) further having a translucent (24) and a pole for supporting [col.2, lines 14-45].

Regarding claims 21 & 25, Bernazzani discloses the lighting element (22) including a panel (16) bearing relative opaque [col.1, lines 37-47, col.3, lines 10-15 and abstract].

Regarding claim 23, The housing may attach to a pull chain / cable (38) [fig.1, col.2, line 55-58].

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Regarding claim 26, Bernazzani discloses the marker luminaire (10) comprising:

- a light emitting diode (20a-20d) as a light source (14) [fig.1, col.2, lines 25-27];
- a lighting element (22) for transmitting light (14) over a broad angle viewing area [fig.1, col.2, lines 25-41];
- an energization circuit is connected to the light emitting diode which is activated by a user on button is inherently [fig.1, col.2, lines 46-58].

Regarding claims 27 & 33, Bernazzani discloses the marker luminaire (10) comprising:

- a housing with an exterior surface , an interior space and a light source mounted in the interior space [fig.1, col.2, lines 9-58];
- a light emitting diode (20a-20d) as a light source (14) [fig.1, col.2, lines 25-27];
- a light scattering (22) for transmitting light (14) over a broad angle viewing area [fig.1, col.2, lines 25-41];
- an energization circuit is connected to the light emitting diode [fig.1, col.2, lines 46-58];
- an energy source is connected to the light emitting diode (20a-20d) [col.2, lines 46-51].

Bernazzani does not specifically mention a phrase a threshold current level energization circuit connected to the lighting emitting diode to luminesce at a level below a useful threshold of human photopic vision and a above a threshold of photopic vision as claimed by an applicant.

Bernazzani discloses a marker luminaire (10) having:

- a light emitting diode (20a-20d) as a light source (14) [fig.1, col.2, lines 25-27];
- a light element (22) for transmitting light (14) over a broad angle viewing area & angle [fig.1, col.2, lines 25-41].

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Kirkley teaches a circuit having a resistor (26) may provide a very low current for lighting a light source as light emitting diode (30) via a battery device (24) [figs.2,4, col.3, lines 38-45 and col.4, lines 21-29].

Therefore, it would have been obvious to one having ordinary in the art to employ the teaching of Kirkley in the system of Bernazzani for providing a minimum current to the lighting device and also produce enough light visible to be seen at the desired distances.

Regarding claims 28-29, Bernazzani discloses the marker luminaire (10) having:

- a light emitting diode (20a-20d) as a light source (14) [fig.1, col.2, lines 25-27];
- a lighting element (22) for transmitting light (14) over a broad angle viewing area & angle [fig.1, col.2, lines 25-41].

Kirkley teaches a circuit having a resistor (26) may provide a very low current for lighting a light source as light emitting diode (30) via a battery device (24) [figs.2,4, col.3, lines 38-45 and col.4, lines 21-29].

Therefore, it would have been obvious to one having ordinary in the art to employ the teaching of Kirkley in the system of Bernazzani for providing a minimum current to the lighting device and also produce enough light visible to be seen at the desired distances.

5. Claims 6 & 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernazzani et al. (EP 1,077,441) in view of Kirkley et al. (U.S. 4,451,871) further view of Molinaroli (U.S. 6,265,984).

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Regarding claims 6 & 15, Bernazzani & Kirkley do not disclose the marker luminaire (10) having a high current level circuit connected to the lighting emitting diode

Kirkley teaches a circuit having a resistor (26) may provide a very low current for lighting a light source as light emitting diode (30) via a battery device (24) [figs.2,4, col.3, lines 38-45 and col.4, lines 21-29].

Furthermore, Molinaroli teaches a circuit having microprocessor may utilize higher current for the lamps (12) via a battery (15) [col. 4, lines 24-38].

Therefore, it would have been obvious to one having ordinary skill in the art to employ the teaching of Kirkley & Molinaroli includes high current circuit feature in the system of Bernazzani for providing a higher current to the lighting device as to produce maximum level of the lighting to be seen at the desired area.

7. Claims 22, 30-32 & 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernazzani et al. (EP 1,077,441) in view of Kirkley et al. (U.S. 4,451,871) further view of von Bauer et al. (U.S. 5,428,388).

Regarding claim 22, The combination of Bernazzani & Kirkley are still missing a radio transmitter.

von Bauer teaches a communication system includes a wireless transmitter is used in the doorbell system [figs.10-11, col.5, lines 6-6:17 and col.9, lines 1-25].

Therefore, it would have been obvious to one having ordinary skill in the art to employ the

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teaching of Kirkley & von Bauer includes a radio transmitter in the system of Bernazzani for providing an accurate wireless signal to the lighting device.

Regarding claims 30-31, von Bauer discloses the communication system includes a wireless transmittter is used in the doorbell system / short range radio transmitter [figs.10-11, col.5, lines 6-6-17 and col.9, lines 1-25].

Regarding claim 32, Bernazzani discloses the marker luminaire (10) having:

- a light emitting diode (20a-20d) as a light source (14) [fig.1, col.2, lines 25-27];
- a lighting element (22) for transmitting light (14) over a broad angle viewing area & angle [fig.1, col.2, lines 25-41].

Regarding claim 34, von Bauer discloses the communication system includes a wireless transmittter is used in the doorbell system / short range radio transmitter [figs.10-11, col.5, lines 6-6-17 and col.9, lines 1-25].

Regarding claims 35-36, Bernazzani discloses the marker luminaire (10) comprising:

- a housing with an exterior surface , an interior space and a light source mounted in the interior space [fig.1, col.2, lines 9-58];
- a light emitting diode (20a-20d) as a light source (14) [fig.1, col.2, lines 25-27];
- a light scattering (22) for transmitting light (14) over a broad angle viewing area [fig.1, col.2, lines 25-41];

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- an energization circuit is connected to the light emitting diode [fig.1, col.2, lines 46-58];
- an energy source is connected to the light emitting diode (20a-20d) [col.2, lines 46-51].

8. Claims 7 & 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernazzani et al. (EP 1,077,441) in view of Kirkley et al. (U.S. 4,451,871) further view of Molinaroli (U.S. 6,265,984) further view of von Bauer et al. (U.S. 5,428,388).

Regarding claims 7 & 16, The combination of Bernazzani & Kirkley and Molinaroli are still missing a radio transmitter.

von Bauer teaches a communication system includes a wireless transmittter is used in the doorbell system [figs.10-11, col.5, lines 6-6-17 and col.9, lines 1-25].

Therefore, it would have been obvious to one having ordinary in the art to employ the teaching of Kirkley / Molinaroli & von Bauer includes a radio transmitter in the system of Bernazzani for providing an accurate wireless signal to the lighting device.

Allowable Subject Matter

9. Claims 9-10 & 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Arguments & Responses

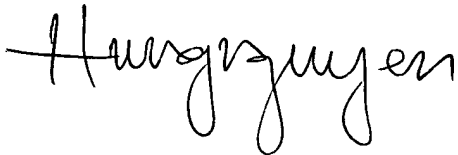
10. Applicant's argument filed on Oct. 29, 2004 have been fully considered but they are moot in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung T. Nguyen whose telephone number is (571) 272-2982. The examiner can normally be reached on Monday to Friday from 8:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hofsass, Jeffery can be reached on (571) 272-2981. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

A handwritten signature in cursive script, appearing to read "Hung T. Nguyen".

Examiner: Hung T. Nguyen

Date: Mar. 2, 2005